

Amendment in the Nature of a Substitute to H.R. 737
Offered by Mr. Webster

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sustainable Shark Fisheries and Trade Act of 2019”.

SEC. 2. PURPOSE.

The purpose of this Act is to establish a certification process to ensure that foreign nations engaging in shark trade into or through the United States conserve and manage populations of sharks in a manner that is comparable to regulatory programs in the United States and that effectively prohibits the practice of removing shark fins and discarding the carcass at sea.

SEC. 3. SHARK CONSERVATION AND TRADE FAIRNESS CERTIFICATION.

Section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k) is amended--

(1) in subsection (a)--

(A) in paragraph (1), by striking “and” after the semicolon at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) a nation if--

“(A) that nation or any individual or entity of that nation has imported shark products into the United States or seeks to import shark products into the United States; and

“(B) the nation has not sought and obtained, by not later than the effective date of subsection (g)(1), a certification from the Secretary under that subsection that the nation has in effect a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding the carcass of the shark at sea, that is comparable to that of the United States.”;

(2) in subsection (b), in paragraphs (2) and (3), by striking “subsection (a)” each place it appears and inserting “subsection (a)(1)”;

(3) in subsection (c)--

(A) in paragraph (1), by striking “subsection (a)” and inserting “subsection (a)(1)”; and

(B) by adding at the end the following:

“(6) APPLICABILITY TO CERTAIN COUNTRIES- This subsection does not apply to a nation identified under subsection (a)(3).”;

(4) in subsection (d)--

(A) in paragraph (1), by inserting “or (g)” after “under subsection (c)”; and

(B) in paragraph (3), by inserting “or (g)” after “under subsection (c)”; and

(5) by adding at the end the following:

“(g) Shark Conservation and Trade Fairness Certification-

“(1) PROHIBITION ON IMPORTATION-

“(A) IN GENERAL- Except as provided in subparagraph (B), shark products shall not be imported into the United States unless the shark products are of a species of shark that were landed in a nation to which the Secretary has granted a certification or partial certification for such species under paragraph (2).

“(B) EXCEPTIONS- Subparagraph (A) shall not apply to shark products that are--

“(i) traded, owned, held, or otherwise possessed by an employee or agent of a governmental agency for law enforcement purposes;

“(ii) used for noncommercial subsistence purposes in accordance with Federal, State, Tribal, or territorial law;

“(iii) used solely for display, education, conservation, or research purposes, by an accredited zoo, aquarium, museum, college, or university; or

“(iv) used by any other person under a State or Federal permit to conduct non-commercial scientific research.

“(2) CERTIFICATIONS- Pursuant to the regulations promulgated under paragraphs (3) and (5), the Secretary--

“(A) shall grant a certification to any nation that has adopted and effectively enforces regulatory programs to provide for the conservation and management of sharks, and measures to prohibit shark finning, that are comparable to those of the United States; and

“(B) may grant a partial certification for one or more specific species of shark to a nation if the Secretary determines that such nation--

“(i) has adopted and effectively enforces regulatory programs that are comparable to the regulatory programs of the United States to provide for the conservation and management of such species imported into the United States or used to produce the shark products imported into the United States; and

“(ii) has in effect an effective ban on shark finning, that is comparable to that of the United States.

“(3) EXPIRATION; RENEWAL- A certification or partial certification issued under this subsection--

“(A) shall be effective for no more than three years after the date of issuance; and

“(B) may be renewed in accordance with the provisions of this subsection relating to the initial issuance of the certification.

“(4) CERTAIN DETERMINATIONS- The Secretary shall make a determination with respect to whether to renew under paragraph (3) or revoke pursuant to paragraph (5)(A)(ii) a certification or partial certification issued under this subsection, by not later than 180 days after the submission of the application for renewal or the petition for revocation, respectively.

“(5) REGULATIONS-

“(A) IN GENERAL- Not later than 2 years after the date of the enactment of the Sustainable Shark Fisheries and Trade Act of 2019, the Secretary shall prescribe regulations under chapter 5 of title 5, United States Code, governing the submission, evaluation, revocation, and renewal of applications for certifications and partial certifications under paragraph (2).

“(B) CONTENT OF REGULATIONS- Such regulations shall--

“(i) prescribe the content and format of applications and standards for information to be provided in such applications; and

“(ii) establish a process for petitioning the Secretary for revocation of the certification or partial certification of any nation, including standards for the information required to be provided to demonstrate that the nation no longer meets the criteria established under this paragraph for the certification.

“(C) CRITERIA FOR CERTIFICATION OR PARTIAL CERTIFICATION- The regulations promulgated under subparagraph (A) shall establish criteria for determining whether a nation has and effectively enforces regulatory programs for the

conservation and management of sharks, and measures to prohibit shark finning, that are comparable to those of the United States, including, at a minimum, a requirement that such programs--

“(i) be consistent with the national standards for fishery conservation and management set forth in section 301(a) of the Magnuson-Stevens Conservation and Management Act (16 U.S.C. 1851(a));

“(ii) provide for regularly updated management plans, scientifically established catch limits, and bycatch assessments and minimization;

“(iii) include a program to prevent overfishing and to rebuild overfished stocks;

“(iv) require reporting and data collection;

“(v) be consistent with the International Plan of Action for Conservation and Management of Sharks of the United Nations Food and Agriculture Organization; and

“(vi) include a mechanism to ensure that, if the nation allows landings of sharks by foreign vessels that are not subject to such programs of such nation, only shark products that comply with such programs are exported to the United States.

“(6) PUBLICATION; PUBLIC COMMENT- The Secretary shall--

“(A) publish in the Federal Register notice of applications, petitions, and decisions with respect to certifications, renewal of certifications, or revocation of certifications under this subsection; and

“(B) provide an opportunity for public comment with respect to such applications, petitions, and decisions.

“(7) FINAL AGENCY ACTION- A decision of the Secretary with respect to the issuance, renewal, or revocation of a certification or partial certification under this subsection, and a failure to make a determination required under paragraph (4), shall be considered a final agency action for the purposes of chapter 7 of title 5, United States Code.

“(8) EFFECTIVE DATE- Paragraph (1) shall take effect on the earlier of--

“(A) the date on which regulations are issued under paragraph (5); or

“(B) the date that is 3 years after the date of the date of the enactment of the Sustainable Shark Fisheries and Trade Act of 2019.

“(9) DEFINITIONS- In this subsection:

“(A) SHARK- The term “shark” means any species of the subclass Elasmobranchii.

“(B) SHARK PRODUCT- The term “shark product” means a live shark; a whole shark; the meat, skin, oil, fin (including a wing or tail), gill raker, cartilage, jaw, tooth, or liver of a shark; or any product containing meat, skin, oil, a fin (including a wing or tail), gill raker, cartilage, jaw, tooth, or liver derived from a shark.

“(C) SHARK FINNING- The term “shark finning” means the removal of a shark's fins, including the tail, and discarding the remaining carcass of the shark at sea.”.

SEC. 4. ACTIONS TO STRENGTHEN INTERNATIONAL FISHERY MANAGEMENT ORGANIZATIONS.

Section 608(a) of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826i(a)) is amended--

(1) in paragraph (1), by striking subparagraph (F), and inserting the following:

“(F) to adopt shark conservation and management measures and measures to prevent shark finning, which are consistent with the International Plan of Action for Conservation and Management of Sharks of the Food and Agriculture Organization of the United Nations;” and

(2) by striking paragraph (3), and inserting the following:

“(3) seeking to enter into international agreement that require measures for the conservation and management of sharks and measures to prevent shark finning, which are consistent with the International Plan of Action for Conservation and Management of Sharks of the Food and Agriculture Organization of the United Nations; and”.

SEC. 5. INCLUSION OF RAYS AND SKATES IN SEAFOOD TRACEABILITY PROGRAM.

Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall revise section 300.324 of title 50, Code of Federal Regulations, to include rays and skates in the species and species groups specified in subsection (a)(2) of that section.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to preempt any Federal or State law establishing additional or more stringent requirements than the requirements of

subsection (g) of section 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826k), as added by section 3.